



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
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MAR 12 2003

Paper No. 22

In re Application of  
Igor Palley *et al*  
Application No. 08/747,471  
Filed: November 12, 1996  
Attorney Docket No. 30-3744CIP2CPA

## : DECISION ON PETITION

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This is a decision on the renewed petition filed on December 17, 2002 by which petitioners again request withdrawal of the holding of abandonment for failure to file a reply to the Office letter dated June 21, 2001. No fee is required for the renewed petition.

The renewed petition is dismissed.

In their original petition, petitioners alleged that the application is not abandoned because their failure to file a reply to the Office letter in question was due to the fact that the Office letter in question was not received by petitioners. In support of this allegation, petitioners had included an evidentiary showing which appeared to satisfy the **minimum** requirements for a showing of nonreceipt of Office correspondence, as established by the Notice published at 1156 OG 53 and discussed in MPEP 711.03(c).

The original petition was dismissed because it was noted that petitioners indicated that the Office letter in question was apparently not received because it was addressed to P.O. Box 31, Petersburg, VA instead of to Woods Edge Road, Colonial Heights, VA. This was taken to be a statement that petitioners' correspondence address had changed and differed from that which was of record when this application was filed.

In the renewed petition, petitioners have adequately addressed that matter. However, petitioners were also required to file a terminal disclaimer. Petitioners were further advised that a terminal disclaimer would be required, because the instant petition was not timely filed under 37 CFR 1.181(f). Petitioners were asked to consult MPEP § 711.03(c), at page 700-139 for the appropriate language that must be included in the terminal disclaimer, which language is **not** the language which is used in a terminal disclaimer filed to overcome an obvious type double patenting rejection. Petitioners have filed a terminal disclaimer with the renewed petition, but it will not be accepted and recorded because it does not contain the correct language. Petitioners are advised that option reading "lesser of: (a) ...; or (b)." is unacceptable. The only acceptable language is that set forth in option (b) on the terminal disclaimer form. Again, see MPEP § 711.03(c).

Absent a proper terminal disclaimer, the renewed petition cannot be granted. Petitioners must file a renewed petition within the time frame established in MPEP § 711.03(c) presenting the appropriate terminal disclaimer.

Further, it was suggested that petitioners prepare a separate paper directing that the correspondence address be changed to the new correspondence address as the correspondence address of record could not be changed based upon a request included in the original petition. See 37 CFR 1.4(c). In the renewed petition, petitioners indicate that the "old" address will be ineffective on January 3, 2003. Yet no change of correspondence address has been filed to date in this application. It is strongly suggested that petitioners file a proper change of correspondence address, as no papers subsequent to this one will be mailed to both the "old" and



the "new" correspondence address.

The application is being retained in Technology Center 3700 pending further action by petitioners.

PETITION DISMISSED.

*E. Rollins-Cross*

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E. Rollins-Cross, Director, Patent  
Examining Groups 3710 and 3720

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